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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,192	01/22/2002	Charles Gordon Fisher III	84417-4002	4435

28765 7590 12/12/2007

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EXAMINER	
FIELDS, BENJAMIN S	

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/054,192	FISHER, CHARLES GORDON	
	Examiner	Art Unit	
	BENJAMIN S. FIELDS	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☒ Claim(s) *9* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on ___ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *31 August 2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Introduction

1. The following is a **FINAL** Office Action in response to the communication received on October 31, 2007. Claims 1-38 are now pending in this application.

Response to Amendments

2. Applicants Amendments to Claims 1-38 has been acknowledged in that: **Claims 1 and 5 have been amended**; **Claims 9-38 are newly added**; hence, as such, **Claims 1-38 are pending in this application**.

3. The Examiner withdraws the previously asserted 35 U.S.C. 120 Priority Claim Objection to Claims 1, 3-6, and 8.

Claim Objections

4. Claim 9 is objected to because of the following informality:

Claim 9 recites the limitation "the computer" in line 3 of the Claim. There is insufficient antecedent basis for this limitation in the claim. A claim is indefinite when it contains words or phrases whose meaning is unclear [in relation to the claim]. The lack of clarity could arise where a claim refers to "said lever" or "the lever," where the claim contains no earlier recitation or limitation of a lever and where it would be unclear as to what element the limitation was making reference. Similarly, if two different levers are recited earlier in the claim, the recitation of "said lever" in the same or subsequent claim would be unclear where it is uncertain which of the two levers was intended. A claim which refers to "said aluminum lever," but recites only "a lever" earlier in the

claim, is indefinite because it is uncertain as to the lever to which reference is made. Inherent components of elements recited have antecedent basis in the recitation of the components themselves. For example, the limitation "the outer surface of said sphere" would not require an antecedent recitation that the sphere has an outer surface. See Bose Corp. v. JBL, Inc., 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir 2001) (holding that recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "[t]here can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter").

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 19 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 19 and 23, as best understood, are directed toward signals and such a claim does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter). Claims to processes that do nothing more than solve mathematical problems or manipulate abstract ideas or concepts are complex to analyze and are addressed herein. If the "acts" of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter

(Gottschalk v. Benson, 409 U.S. 63, 71 - 72, 175 USPQ 673, 676 (1972)). Thus, a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process. In practical terms, claims define nonstatutory processes if they:

– consist solely of mathematical operations without some claimed practical application (i.e., executing a "mathematical algorithm"); or

– simply manipulate abstract ideas, e.g., a bid (Schrader, 22 F.3d at 293-94, 30 USPQ2d at 1458-59) or a bubble hierarchy (Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759), without some claimed practical application.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-9, 12, 20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooperstein (US Pat. No. 5,893,071), [hereinafter Cooperstein].

Referring to Claim 1: Cooperstein discloses a system for administering a payout option of an individual annuity contract of a contract owner, wherein said individual annuity contract is a variable annuity contract or a fixed annuity contract (Cooperstein:

Column 3, Lines 25-30), said system comprising: a memory including data relating to said individual annuity contract stored therein, said data including an associated payout option which permits the contract owner of said individual annuity contract to request and withdraw an amount of principal from the annuity during a payout phase of the individual annuity contract (Cooperstein: Figures 7A-7C; Column 3, Lines 30-40); and a processor operatively coupled to said memory configured to read the associated payout option, to provide that option to a system user, and to calculate and issue a payout in response to a request from said contract owner for a withdrawal of the amount of principal from said annuity.

The Examiner further notes within Claim 1; the annuity contract for which data is stored "includes a payout option which permits the contract owner to withdraw an amount of principal from the annuity during the payout phase of the individual annuity contract" has been interpreted as an intended use; the memory disclosed in Cooperstein would be capable of performing such intended use.

Referring to Claim 2: Cooperstein teaches a system and method where the withdrawal request can be for a portion of the available principal (Cooperstein: Figures 7A-7C; Column 10, Line 10-Column 11, Line 40).

Referring to Claim 3: Cooperstein shows system and method where the amount withdrawn may be of the entire principal value (Cooperstein: Figures 7A-7C; Column 10, Line 10-Column 11, Line 40//The Examiner notes that Cooperstein is capable of achieving the results of Claim 2; the same system and method would also be able to achieve results of Claim 3).

Referring to Claim 4: Cooperstein discusses a system and method with a withdrawal charge that will be calculated and withdrawn from withdrawal payments (Cooperstein: Figure 7, #202; Column 11, Lines 25-40).

Referring to Claim 5: The Examiner notes that Claim 5 is the method for the system of Claim 1. As such, Claim 5, is rejected under the same grounds as is Claim 1 as mentioned supra.

Referring to Claim 6: The Examiner notes that Claim 6 is the method for the system of Claim 2. As such, Claim 6, is rejected under the same grounds as is Claim 2 as mentioned supra.

Referring to Claim 7: The Examiner notes that Claim 7 is the method for the system of Claim 3. As such, Claim 7, is rejected under the same grounds as is Claim 3 as mentioned supra.

Referring to Claim 8: Cooperstein discusses a system and method with a withdrawal charge, calculated and withdrawn from withdrawal payments (Cooperstein: Figure 7, #202; Column 11, Lines 25-40).

Referring to Claim 9: Cooperstein shows a system for administering an annuity contract comprising: a database providing storage to information related to the annuity contract, the information including a payout option and an annuitization date, wherein the computer is configured to determine whether the contract has annuitized based on the annuitization date; access the database to determine the payout option; calculates an annuity payment based on the payout option; if the payout option is an option where payments are made to a predetermined age, calculate one of a partial withdrawal

amount and a surrender amount based on information in the database; and generates an output corresponding to the partial withdrawal amount or the current amount (Cooperstein: Figure 1; Column 4, Line 23-Column 5, Line 32; Column 5, Line 47-Column 7, Line 7).

Referring to Claim 12: Claim 12 parallels the limitations of Claim 9 and as such, is rejected under the same grounds as is Claim 9 as mentioned supra.

Referring to Claim 20: Claim 20 parallels the limitations of Claim 9, and as such, is rejected under the same grounds as is Claim 9 as mentioned supra.

Referring to Claim 24: The Examiner notes that Claim 24 is the method for the system of Claim 9. As such, Claim 24 is rejected under the same grounds as is Claim 9, as mentioned supra.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 10-11, 13-19, 21-23, and 25-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooperstein in view of Official Notice.

Referring to Claim 10: Cooperstein teaches the limitations of Claim 9.

Cooperstein, however, does not expressly disclose a system wherein the database is further configured to store an amount annuitized, an age of annuitant, an

annuity factor, a unit value and an assumed investment return (AIR) and the computer is configured to check the database to determine the number of units that are payable in an annuity payment, the number of units paid being calculated using the equation: Units Paid = (Amount Annuitized) x Annuity Factor Unit Value; and calculate the annuity payment based on the units paid.

The Examiner takes Official Notice that it is old and well known to one of ordinary skill in the art to use the Annuity Units Paid equation in order to calculate an annuity payment.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by utilizing the Annuity Units Paid equation for the purposes of calculating a more efficient annuity payment schema.

Referring to Claim 11: Cooperstein discusses the limitations of Claim 9. Cooperstein, however, does not expressly show a system wherein the computer is configured to calculate the annuity factor using the equation: 1/[((1-vn)/d)]; where v = 1/(1 + I0), I0 = AIR, d = I0v, and n = (the predetermined age) - (the age of annuitant on the annuitization date).

The Examiner notes that the equation used within Claim 11 in order to calculate the annuity factor is old and well known to one of ordinary skill in the art. As such Claim 11 is rejected.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by utilizing the Annuity Factor equation for the purposes of calculating a more efficient annuity payment schema.

Referring to Claim 13: Cooperstein teaches the limitations of Claim 9.

Cooperstein, however, does not expressly disclose a system wherein the database stores an annuity principal, annual payments, conditions for withdrawal, an age of annuitant, and remaining payments and said computer is configured to check the database to receive a request for a partial withdrawal of the annuity principal; determine whether the request meets the conditions for withdrawal; determine whether the contract was annuitized during a surrender charge period; determine a percentage of the annual payments to be withdrawn; and calculate a present value of a percentage of the remaining payments using the equation: Present value = (percentage of annual payments to be withdrawn) x (annual payment) x 1/((1 -vn)/d); where v-- 1/(1 + I0), I0 = AIR, d -- I0v, and n = (predetermined age) - (the age of annuitant on the annuitization date).

The Examiner notes that the equation used within Claim 13 in order to calculate a present value of a percentage of the remaining payments is old and well known to one of ordinary skill in the art. As such, Claim 13 is rejected.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by calculating a present value function for the purposes of calculating a more efficient annuity payment schema.

Referring to Claim 14: Cooperstein shows the limitations of Claim 9.

Cooperstein, however, does not expressly disclose a system wherein the processor provides an amount waived and a percentage (%) withdrawn; and the processor calculates a reduction in the present value using the equation [See Equation].

The Examiner notes that the equation used within Claim 14 to determine the reduction in present value is old and well known to one of ordinary skill in the art. As such, Claim 14 is rejected.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by determining a reduction in present value for the purposes of calculating a more efficient annuity payment schema.

Referring to Claim 15: The Examiner notes that Claim 15 is an obvious variant of Claim 14, and as such, is rejected.

Referring to Claim 16: Claim 16 reflects the limitations of Claim 13, and as such, is rejected under the same grounds as is Claim 13 as mentioned supra.

Referring to Claim 17: Claim 17 parallels the limitations of Claim 14, and as such, is rejected under the same grounds as is Claim 14 as mentioned supra.

Referring to Claim 18: Claim 18 reflects the limitations of Claim 15, and as such, is rejected under the same grounds as is Claim 15 as mentioned supra.

Referring to Claim 19: Cooperstein shows the limitations of Claim 9.

Cooperstein, however, does not expressly disclose a system wherein the computer is configured to generate a signal signaling production of a check for one of the partial withdrawal amount and the surrender amount.

The Examiner takes Official Notice that it is old and well known to one of ordinary skill in the art to maintain a check production system for one of the partial withdrawal/surrender amount.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by generating a signal signaling production of a check for one of the partial withdrawal/surrender amount for the purposes of calculating an annuity payment.

Referring to Claim 21: Cooperstein discusses the limitations of Claim 20.

Cooperstein, however, does not expressly disclose a system wherein the computer is further configured to determine a payment and a number of payments remaining on the contract; and to calculate a reserve amount, wherein the reserve amount is calculated using the equation: Reserve = Payment x 1/((1-vX)/d); where v = 1/(1 + I0), I0 = AIR, d = I0v, and x = number of payments remaining on the contract.

The Examiner takes Official Notice that it is old and well known to one of ordinary skill in the art to maintain a system in order to determine a payment and a number of payments remaining on the contract by means of usage of a reserve amount calculation.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by incorporating a payment and reserve amount calculation for the purposes of calculating an annuity payment.

Referring to Claim 22: Cooperstein shows the limitations of Claim 22.

Cooperstein, however, does not expressly disclose a system wherein the computer is further configured to discount the reserve at an interest rate equal to the AIR.

The Examiner takes Official Notice that it is old and well known to one of ordinary skill in the art to configure a discount reserve at an interest rate equal to the AIR.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Cooperstein by incorporating a discount feature for the purposes of calculating an annuity payment.

Referring to Claim 23: Claim 23 parallels the limitations of Claim 19, and as such, is rejected under the same grounds as is Claim 19 as mentioned supra.

Referring to Claim 25: The Examiner notes that Claim 25 is the method for the system of Claim 10. As such, Claim 25 is rejected under the same grounds as is Claim 10, as mentioned supra.

Referring to Claim 26: The Examiner notes that Claim 26 is the method for the system of Claim 11. As such, Claim 26 is rejected under the same grounds as is Claim 11, as mentioned supra.

Referring to Claim 27: The Examiner notes that Claim 27 is the method for the system of Claim 12. As such, Claim 27 is rejected under the same grounds as is Claim 12, as mentioned supra.

Referring to Claim 28: The Examiner notes that Claim 28 is the method for the system of Claim 13. As such, Claim 28 is rejected under the same grounds as is Claim 13, as mentioned supra.

Referring to Claim 29: The Examiner notes that Claim 29 is the method for the system of Claim 14. As such, Claim 29 is rejected under the same grounds as is Claim 14, as mentioned supra.

Referring to Claim 30: The Examiner notes that Claim 30 is the method for the system of Claim 15. As such, Claim 30 is rejected under the same grounds as is Claim 15, as mentioned supra.

Referring to Claim 31: The Examiner notes that Claim 31 is the method for the system of Claim 16. As such, Claim 31 is rejected under the same grounds as is Claim 16, as mentioned supra.

Referring to Claim 32: The Examiner notes that Claim 32 is the method for the system of Claim 17. As such, Claim 32 is rejected under the same grounds as is Claim 17, as mentioned supra.

Referring to Claim 33: The Examiner notes that Claim 33 is the method for the system of Claim 18. As such, Claim 33 is rejected under the same grounds as is Claim 18, as mentioned supra.

Referring to Claim 34: The Examiner notes that Claim 34 is the method for the system of Claim 19. As such, Claim 34 is rejected under the same grounds as is Claim 19, as mentioned supra.

Referring to Claim 35: The Examiner notes that Claim 35 is the method for the system of Claim 20. As such, Claim 35 is rejected under the same grounds as is Claim 20, as mentioned supra.

Referring to Claim 36: The Examiner notes that Claim 36 is the method for the system of Claim 21. As such, Claim 36 is rejected under the same grounds as is Claim 21, as mentioned supra.

Referring to Claim 37: The Examiner notes that Claim 37 is the method for the system of Claim 22. As such, Claim 37 is rejected under the same grounds as is Claim 22, as mentioned supra.

Referring to Claim 38: The Examiner notes that Claim 38 is the method for the system of Claim 23. As such, Claim 38 is rejected under the same grounds as is Claim 23, as mentioned supra.

Response to Arguments

11. Applicants arguments filed 2 October 2007 have been fully considered and are **not** persuasive. Applicant argues:

In the office action claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooperstein (U.S. Patent 5,893,071). However, all the features of claim 1, 3, and 4 are not described or suggested by Cooperstein. Cooperstein describes prior art systems which the present application improves upon. The invention of the present application as defined in the claims provides the option to allow annuity contract owners to withdraw principal during the payout phase of the annuity contract. The ability to withdraw principal in the payout phase is important for a number reasons. One significant reason, not described or contemplated by Cooperstein, is that the withdrawal of principal, e.g., money contributed to purchase the annuity contract, is a non-taxable event. This is because, a contract owner may have paid X amount of his or her own post-tax dollars to purchase the annuity so as to secure certain payments during his or her retirement. The annuity payments made during retirement include interest earned

during the accumulation phase of the annuity and also, possibly, some portion of the principal that the contract owner contributed to purchase the annuity. In such annuity payments, the contract owner will be taxed on the interest earned, but not on any principal that is returned to the contract owner. The present invention as defined by the claims gives an annuity contract owner the option to request and withdraw the principal during the payout phase (e.g., retirement) and provides the contract owner with the advantage of tapping into this non-taxable event above and beyond the annuity payments that are set under the contract. Claim 1 implements features for taking advantage of these features. Cooperstein does not describe or suggest such systems. As such all the features of claim 1 are not described or suggested by Cooperstein. Moreover, Cooperstein specifically describes or teaches to the contrary. Cooperstein notes that "[i]n establishing the payout amounts in this way.., principal and/or interest are not available after income payments commence, neither for withdrawal nor on or after the annuitant's death." col. 2, lines 8-15. Claims 3 and 4 are allowable at least because they depend from independent claim 1, which is distinguished over the cited reference above.

The Examiner respectfully disagrees. The Examiner notes the Applicants misplaced attention to the quote from Cooperstein: "[i]n establishing the payout amounts in this way.., principal and/or interest are not available after income payments commence, neither for withdrawal nor on or after the annuitant's death." [taken from Cooperstein at Column 2, Lines 8-15]. This information, while from the disclosure of the Cooperstein patent, has been taken from the section entitled: Background of the

Invention; where the Cooperstein patent wishes to teach away from or enhancements towards. As such, the Examiner maintains a ground of rejection in regards to Claim 1.

12. As the remaining claims depend directly or indirectly from the independent claims mentioned above, the Examiner maintains all previously asserted rejections based on these claims. The Examiner notes the following discussion of Official Notice taken from the MPEP:

> To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard, 139 F.2d at 713, 60 USPQ at 241* ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697* ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

First, Applicant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." Applicant's broad request for references to support Examiner's statements of Official Notice amounts to nothing more

than an unsupported challenge. For these reasons, Claims 3, 4, and 6-8 are taken to be admitted prior art because Applicant's traversal was inadequate.

Second, Applicant's challenge is not timely. All statements of Official Notice made in the art rejection have been on record since issuance of the rejection mailed on 21 May 2007. In the subsequent response filed on 2 October 2007 and 31 October 2007, Applicant was silent on the matter of Official Notice. Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice.

Applicant is silent as to the Examiner's rejection of Claims 3, 4, and 6-8. Furthermore, the Examiner asserts the previous rejections of these Claims were taken properly.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN S. FIELDS whose telephone number is 571.272.9734. The examiner can normally be reached on MONDAY through THURSDAY between the hours of 8AM and 8PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at 571.272.6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin S. Fields

5 December 2007

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